

REMARKS

Claims 1-3 and 21-26 are pending in this application.

Applicants acknowledge that claims 1-3 and 21-26 of this application have been rejected under the judicially created doctrine of obviousness-type double patenting based on U.S. Patent No. 6,252,045. Applicants are filing concurrently herewith a Terminal Disclaimer of the commonly owned 6,252,045 patent to avoid the obviousness-type double patenting rejection over claim 1 of the 6,252,045 patent. Please charge Deposit Account No. 50-0447 the amount of \$55 under 37 C.F.R. 1.20(d) for a small entity, plus any deficiencies, for the filing of the Terminal Disclaimer.

The claims of this application stand rejected under 102(a) as being anticipated by "Interspecies Diversity of the Occludin Sequence: cDNA Cloning of Human, Mouse, Dog, and Rat-Kangaroo Homologues," Ando-Akatsuka et al., The Journal of Cell Biology, Vol. 133, No. 1, April 1996 43-47 (hereinafter referred to as the Ando-Akatsuka publication). The Examiner asserts that Applicants' arguments and declaration filed on June 23, 2003 are not persuasive and noted that for the declaration to be effective to overcome the 35 U.S.C. §102(a) rejection, all of the inventors are required to sign the declaration.

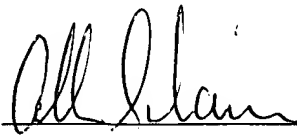
In response, Applicants are submitting concurrently herewith a Declaration of Dr. Anderson and Dr. Van Itallie, the two named inventors of the instant application, along with its accompanying Exhibits. The Declaration and its accompanying Exhibits provides facts that are sufficient to establish Applicants' reduction to practice of the presently claimed

invention prior to the earliest effective date (i.e., the publication date) of the Ando-Akatsuka publication. Exhibit C to the Declaration of Dr. Anderson contains laboratory notebook pages dated prior to the earliest publication date of the Ando-Akatsuka publication demonstrate reduction to practice of the invention prior to the earliest publication date of the Ando-Akatsuka publication. However, the dates have been redacted to preserve the secrecy of the date of invention. Applicants respectfully request that the §102(a) rejection of claims 1-3 and 21-26 be reconsidered and withdrawn.

Applicants believe that the foregoing is a complete response to the office action and respectfully request favorable consideration and that the claims of this application be passed to allowance.

If the Examiner has any questions regarding this response, he is requested to contact the undersigned at 203-575-2629 for a telephone interview prior to the issuance of the next office action.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Arthur G. Schaier', is written over a horizontal line.

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